



Georgia Department of Early Care and Learning

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MEMORANDUM

To: All Institutions and Sponsors Participating in the Child and Adult Care Food Program (CACFP) and the Summer Food Service Program (SFSP)

From: Falita S. Flowers, Nutrition Services Director (*Original Signed*)

Date: December 21, 2015

Subject: Guidance on Competitive Procurement Standards for Program Operators

Legal Authority: USDA Policy Memorandum CACFP 05-2016, SFSP 09-2016

Recent communications between the Food and Nutrition Service (FNS) and State agency program staff during procurement trainings and management evaluations conducted in fiscal year (FY) 2014-2015 indicated a need for guidance on competitive procurement standards. These standards are located at: 7 CFR Part 220.16; Summer Food Service Program (SFSP) 7 CFR Part 225.17; Child and Adult Food Program (CACFP) 7 CFR Part 226.22 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.317-326 (formerly in 7 CFR Parts 3016.36 and 3019.40-48).

These standards ensure CACFP institutions and SFSP sponsors conduct procurement transactions in accordance with governing regulations and in a manner that facilitates full and open competition. Full and open competition is achieved when potential bidders/offers receive all information necessary to respond properly to a solicitation; and responses are accurately evaluated for contract award. Contracts must be awarded to the responsive and responsible bidder/offers whose bid/proposal is lowest or most advantageous to the program with price and other factors considered of which cost/price must be primary. (See *Procurement Questions* dated July 14, 2005. <http://www.fns.usda.gov/sites/default/files/2005-07-14.pdf>)

Management evaluations conducted in fiscal year 2015 revealed a number of issues, primarily that State agencies have been approving contracts for awards that contained unallowable cost provisions (i.e., incentives, investments, and value-added or overly responsive bids/offers) and/or failed to consider cost as the primary evaluation factor. In these instances, FNS required State agencies to review all existing contracts to determine whether or not the contracts were in compliance with applicable requirements.

Contracts found to be noncompliant with unallowable cost provisions were required to be amended. Contracts that failed to include cost as the primary factor were required to be rebid.

State agencies, including Bright from the Start: Georgia Department of Early Care and Learning (DECAL), have been trained in procurement regulations and are preparing to begin conducting reviews of procurement activities by CACFP institutions and SFSP sponsors. In order to prepare for procurement reviews and to ensure compliance with all Federal procurement standards, CACFP institutions and SFSP sponsors are strongly encouraged to review the documentation of their procurement solicitations, responses, and evaluation procedures used to award contracts. This includes ensuring all existing contracts were evaluated and awarded without unallowable cost provisions and that cost was the primary evaluation factor among factors considered. If issues with unallowable cost provisions are identified in contracts, these contracts must be amended immediately to remove these provisions.

Moving forward, all new solicitations must include provisions for evaluation and scoring factors with cost as the primary factor. Solicitations must include language on prohibited expenditures found in program regulations, as well as, required contract provisions in Program and Uniform Administrative regulations in 2 CFR Part 200, if adopted, and in Appendix II of 2 CFR Part 200, as applicable. As a reminder, all food service management company contracts must be reviewed by DECAL prior to execution.

Additionally, responses to solicitations must be evaluated without consideration of any included unallowable cost provisions and must be awarded using the published evaluation and scoring factors, with cost as the primary factor. Contracts must be awarded to the lowest responsive and responsible bidder, or to the responsible firm whose proposal is most advantageous to the program with price as the primary factor.

Below is a list of DECAL resources to assist CACFP institutions and SFSP sponsors with ensuring compliance in their procurement practices. In addition to the contents in this memorandum institutions and sponsors must follow Bright from the Start: Georgia Department of Early Care and Learning's (DECAL) **Procurement Guidance Manual**, 7 C.F.R. §§ 225.15, 225.17, 7 C.F.R. §226.22, and 2 C.F.R. §200 for complete guidance on procurement standards and requirements under the CACFP and SFSP. DECAL sponsored trainings can also be most useful when understanding the procurement process. Please occasionally refer to the DECAL website for upcoming training dates and/or information at <http://www.decal.ga.gov/Nutrition/NutritionServicesMain.aspx>.

Accessible links on procurement include the following:

Procurement Templates

<http://decal.ga.gov/documents/attachments/InvitforBid-Cont.pdf>

<http://decal.ga.gov/documents/attachments/InvitforBidCACFP-ContVendors.pdf>

http://decal.ga.gov/documents/attachments/InvitforBidSFSP_FSMC.pdf

<http://decal.ga.gov/documents/attachments/InvitforBidSFSPContVendors.pdf>

DECAL Procurement Guidance Manual

<http://www.decal.ga.gov/documents/attachments/ProcurementManual.pdf>

Child and Adult Care Food Program Regulations

<http://decal.ga.gov/documents/attachments/CACFPRegulations7CFR226.pdf>

Food Service Program Regulations

<http://www.decal.ga.gov/documents/attachments/SFSPRegulations7CFR225.pdf>

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

DECAL Budget Guidance Manual
https://www.cnp2000.decal.ga.gov/files/Budget_Guidance.pdf

DECAL Policy Memorandum, “*Written Codes of Conduct and Performance of Employees Engaged in Award and Administration of Contracts (revised)*,” October 1, 2015
<http://decal.ga.gov/documents/attachments/WrittenCodesofConductandPerformanceofEmployees.pdf>

DECAL Policy Memorandum, “*Standards for Development of Procurement Policy Consistent with CACFP and SFSP Federal Requirements*,” October 1, 2015
<http://www.decal.ga.gov/documents/attachments/ProcurementStandardsPrototype.pdf>

USDA Policy Memorandum, “*Procurement Geographic Preference Q&As - Part II*”
<http://www.fns.usda.gov/sites/default/files/SP03-2013os.pdf>

DECAL Policy Memorandum, “*Procuring Local Meat, Poultry, Game, and Eggs for Child Nutrition Programs*,” November 12, 2015
<http://www.decal.ga.gov/documents/attachments/ProcuringLocalMeatPoultryGameandEggsCNP112015.pdf>

DECAL Policy Memorandum, “*Questions and Answers on the Transition to and Implementation of 2 CFR Part 200*,” November 24, 2015
<http://www.decal.ga.gov/documents/attachments/QuestandAnsTransitionImplemCFR.pdf>

For questions or assistance concerning procurement, please contact the Procurement and Purchasing Compliance Officer at 404-656-2472.